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Security Council

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Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 27 July 2005 from the Permanent Mission of Switzerland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Switzerland to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan and, with reference to paragraph 3 (a) (vi) of resolution 1591 (2005), has the honour to submit the attached information regarding the steps that have been taken by Switzerland to implement the measures imposed by that resolution (see annex).

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Annex to the note verbale dated 27 July 2005 from the Permanent Mission of Switzerland to the United nations addressed to the Chairman of the Committee

Report submitted by Switzerland pursuant to Security Council resolution 1556 (2004) and resolution 1591 (2005)

In his note of 27 May 2005 the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan (hereinafter "the Committee") requested Switzerland to submit a report in accordance with paragraph 3 (a) (vi) of the resolution, which should include information on the steps taken by Switzerland to implement the measures imposed by paragraph 3 (d) and (e) and paragraph 7 of the resolution (together with paragraphs 7 to 9 of resolution 1556 (2004)).

On 25 May 2005 the Swiss Federal Council adopted an ordinance instituting measures against the Sudan (hereinafter "the ordinance", a copy of which is attached). Under that ordinance, which entered into force on 26 May 2005, Switzerland is implementing enforcement measures in accordance with resolutions 1556 (2004) and 1591 (2005). The legal basis for this ordinance is the Federal Law on the Implementation of International Sanctions of 22 March 2002.

Arms embargo

Article 1 of the ordinance specifies that the "supply, sale, transit as well as brokering of items of military equipment of any kind" intended for the Sudan [...] are prohibited. The same article also specifies that the "supply, sale and brokering of technical advice and training or assistance related to the supply, production, maintenance and use of [items of military equipment] goods are prohibited". Article 1 of the ordinance also provides for exceptions to the prohibitions in accordance with those specified in resolutions 1556 (2004) and 1591 (2005).

Before the entry into force of the ordinance, Switzerland ensured that the United Nations embargo was implemented through the Federal Law on War Materiel and the Federal Law on the Control of Goods of 13 December 1996 as well as their respective implementing regulations. It should be noted that no export of war materiel from Switzerland to the Sudan has been authorized during the past two years.

Travel ban and assets freeze

Article 2 of the ordinance provides for a freezing of assets and economic resources (including the ban on making assets or economic resources available to the persons or entities covered) in accordance with paragraph 3 (e) of resolution 1591 (2005). Article 4 of the ordinance bans entry into and transit through Switzerland in accordance with paragraph 3 (d) of the resolution. The names of persons and entities affected by these measures will be annexed to the ordinance as soon as the Committee issues a list of names.

Ordinance instituting measures against the Sudan of 25 May 2005 (status as at 31 May 2005)

The Swiss Federal Council,

In view of article 2 of the Law on Embargoes[1] of 22 March 2002,

In view of Security Council resolutions 1556 (2004) and 1591 (2005),[2]

Decrees as follows:

Section 1
Enforcement measures

Article 1
Ban on the supply of items of military equipment and related materiel

1. The supply, sale, transit and brokering of items of military equipment of any kind, including military weapons, ammunition, vehicles and equipment and paramilitary equipment, as well as accessories and spare parts thereof, are prohibited.

2. The supply, sale and brokering of technical advice and training or assistance related to the supply, production, maintenance and use of the items referred to in paragraph 1 are prohibited.

3. The State Secretariat for Economic Affairs may, after consulting the competent offices of the Federal Department of Foreign Affairs, authorize exceptions to the prohibitions specified in paragraphs 1 and 2:

(a) For supplies intended solely for the United Nations Mission in the Sudan (UNMIS);

(b) For supplies intended solely for monitoring, verification or peace support operations conducted by regional organizations;

(c) For the supply of non-lethal military equipment intended solely for humanitarian or protective use;

(d) For the supply of protective clothing (such as flak jackets) for use by United Nations personnel, media representatives and humanitarian aid workers;

(e) For support for the implementation of the Comprehensive Peace Agreement signed in Nairobi on 9 January 2005.

4. The provisions of the Law on the Control of Goods[3] of 13 December 1996 and the Federal Law on War Materiel[4] of 13 December 1996 shall not be prejudiced.

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[1] RS 946.231.

[2] http://www.un.org/french/documents/scres.htm.

[3] RS 946.202.

[4] RS 514.51.

Article 2
Freezing of assets and economic resources

1. The assets and economic resources belonging to or under the control of persons, enterprises or entities listed in the annex shall be frozen.

2. Assets may not be provided to persons, enterprises and entities covered by the freezing of assets, and assets and economic resources may not be made available to them directly or indirectly.

3. The State Secretariat for Economic Affairs may, by way of exception, after having consulted the competent offices of the Federal Department of Foreign Affairs and the Federal Department of Finance, authorize payments from frozen accounts and transfers of frozen capital assets and the release of frozen economic resources to protect Swiss interests or to prevent hardship cases.

Article 3
Definitions

Within the meaning of this ordinance, the following definitions shall apply:

(a) Assets mean all financial assets, including cash, cheques, monetary claims, bills of exchange, postal orders or other means of payment, deposits, debentures and certificates of indebtedness, securities and debt securities, share certificates, bonds, debt obligations, options, mortgage bonds, derivatives, interest receipts, dividends or other income or added value generated by capital assets, credits, entitlements to compensation, guarantee bonds, contract guarantees and other financial commitments; letters of credit, bills of lading, insurance contracts, fund unit securitization documents and other financial resources and any other export financing instrument;

(b) Freezing of assets means preventing any action allowing the management or use of assets other than normal administrative actions carried out by financial institutions;

(c) Economic resources mean securities of any kind, tangible or intangible, transferable or untransferable, in particular real estate and luxury items, other than assets within the meaning of subparagraph (a);

(d) Freezing of economic resources means any action to prevent their use in order to acquire assets, goods or services in any manner whatever, including through their sale, renting or mortgaging.

Article 4
Ban on entry into and transit through Switzerland

1. Natural persons listed in the annex shall be prohibited from entering into and transiting through Switzerland.

2. The Federal Office for Migration may grant waivers in accordance with the decisions of the competent United Nations Security Council committee or if the protection of Swiss interests so requires.

Section 2
Implementation and penal provisions

Article 5
Control and implementation

1. The State Secretariat for Economic Affairs shall monitor the implementation of enforcement measures under articles 1 and 2.

2. The Federal Office for Migration shall oversee the implementation of the ban on entry and transit under article 4.

3. Border control shall be the responsibility of the Federal Customs Administration.

4. Upon instructions from the State Secretariat for Economic Affairs, the competent authorities shall take the measures necessary for the freezing of economic resources, for example notification of freezing of the land register or the seizure or sealing of luxury items.

Article 6
Mandatory declaration

1. Persons or institutions who hold or manage assets or who have knowledge of economic resources which must be recognized as being subject to freezing in accordance with article 2, paragraph 1, must declare them without delay to the State Secretariat for Economic Affairs.

2. The declaration must include the name of the beneficiary and the object and the value of the frozen assets and economic resources.

Article 7
Penal provisions

1. Any person who violates the provisions of articles 1, 2 or 4 shall be liable to punishment in accordance with article 9 of the Law on Embargoes.

2. Any person who violates the provisions of article 6 shall be liable to punishment in accordance with article 10 of the Law on Embargoes.

3. The State Secretariat for Economic Affairs shall prosecute and try offences within the meaning of articles 9 and 10 of the Law on Embargoes; it may order seizures and confiscations.

Section 3
Entry into force

Article 8

This ordinance shall enter into force on 26 May 2005.

Annex
(Article 2, paragraph 1, and article 4, paragraph 1)

Natural persons, enterprises and entities subject to enforcement measures under articles 2 and 4

This annex does not contain any entries as the competent Security Council sanctions committee has not yet issued a list of names.